

## **REMARKS**

### **I. Status of Claims**

Claims 1-4, 6, 8-9, and 11-23 are pending in the application. Claims 1 and 14 are independent. Claims 1-4, 6, 8-9, and 11-12 are currently amended. Claims 14-23 are newly added. Support for the additional language of claim 13 can at least be found on page 6, lines 11-14 of the specification where it is stated that, "Each section of the holding portion 18 surrounded by one of the incisions is bent substantially perpendicularly toward the holding portion 19 (lower one as viewed in FIG. 2). The bent sections function as the deformation restricting portions 21." Support for newly added claims 14-23 can at least be found in the drawings, the claims as originally filed, and throughout the specification. The Applicant believes that no new matter is added. Claims 5, 7, and 10 were/are canceled without prejudice to and/or disclaimer of the subject matter therein.

Claims 1-3, 6, and 8-10 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Kanou et al (JP 63125864A) (Kanou).

Claims 1 and 11 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Ishida (JP 02157629) (Ishida).

Claims 4 and 12 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Kanou.

The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks.

### **II. Claim 35 USC 112, second paragraph, Rejections**

The Applicant respectfully submits that claim 2 is amended to correct any perceived ambiguity. Accordingly, the Applicant respectfully requests withdrawal of this rejection.

### **III. Reliance Upon Abstract/Foreign Language Documents in Support of a Rejection**

The Applicant respectfully submits that it does not appear that translations of Kanou or Ishida have been provided to the Applicant. If this is the case, the Applicant respectfully requests such a translation for the following reasons set forth in the MPEP.

Prior art uncovered in searching the claimed subject matter of a patent application often includes English language abstracts of underlying documents, such as technical literature or foreign patent documents which may not be in the English language. When an abstract is used to support a rejection, the evidence relied upon is the facts contained in the abstract, not additional facts that may be contained in the underlying full text document. Citation of and reliance upon an abstract without citation of and reliance upon the underlying scientific document is generally *inappropriate* where both the abstract and the underlying document are prior art. See *Ex parte Jones*, 62 USPQ2d 1206, 1208 (Bd. Pat. App. & Inter. 2001) (unpublished). To determine whether both the abstract and the underlying document are prior art, a copy of the underlying document must be obtained and analyzed. If the document is in a language other than English and the examiner seeks to rely on that document, **a translation must be obtained** so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection. The record must also be clear as to whether the examiner is relying upon the abstract or the full text document to support a rejection.

#### IV. Pending Claims

Following the above-identified amendments—which amended claim 1 to include the limitations of claim 10—it would appear that claim 1 is rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Kanou (we note that claim 10, now incorporated into claim 1, was only rejected as allegedly being anticipated by Kanou).

The Applicant respectfully submits that claim 1 is patentable over Kanou at least because it recites, “forming a deformation restricting portion that restricts deformation of the annular sealing member along the thickness of the gasket plate by bending part of one of the holding portions toward the other holding portion.” (emphasis added)

On page 3 of the Office Action, the Examiner indicates that “The restricting portion is formed by bending (method limitations given little patentable weight in an apparatus claim).” Thus, it appears as if the Office Action recognizes that Kanou does not disclose forming a deformation restricting portion that restricts deformation of the annular sealing member along the thickness of the gasket plate by bending part of one of the holding portions toward the other holding portion. Accordingly, the Applicant has re-drafted claim 1 as a method claim and to

include the limitations of claim 10.

Having said that, with respect to Kanou, in FIG. 1, it appears as if the deformation restriction portion relied upon in the Office Action is a wiring ring 13; however, in contrast to certain embodiments of the present invention, it is not a bending part as required by the Applicant's claims.

Further, since Ishida does not describe a deformation restriction portion, it is respectfully submitted that it does not address the deficiencies of Kanou.

Therefore, the Applicant respectfully submits that, for at least these reasons, claim 1 and its dependent claims are patentable over the cited references.

Further, new claim 13 further clarifies formation of the deformation restricting portion by "perpendicularly bending." New claims 14-23 have been added to include the claims of "gasket."

In addition, the Applicant respectfully submits that claim 14 is also patentable over the cited references at least for the reasons cited herein above with respect to claim 1 and because it recites, "a deformation restricting portion that restricts deformation of the annular sealing member along the thickness of the gasket plate, wherein the deformation restricting portion is formed by bending part of one of the holding portions toward the other holding portion." Accordingly, for at least these reasons, the Applicant respectfully submits that claim 14 and its dependent claims are patentable over the cited references.

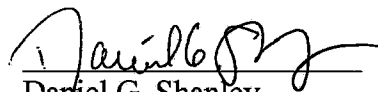
**V. Conclusion**

For the above reasons, the Applicant respectfully submits that this application is in condition for allowance. Prompt consideration and allowance are solicited. The Examiner is encouraged to contact the undersigned with any questions. The Office is authorized to charge any additional fees under 37 C.F.R. § 1.16, § 1.17, or § 1.136, or credit of any overpayment, to Kenyon & Kenyon Deposit Account No. 11-0600.

Respectfully submitted,

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